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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,262	02/22/2005	Akira Nakano	MATS:057	5009
37013 7590 03/27/2009 ROSSI, KIMMS & McDOWELL, LLP. 20609 Gordon Park Square, Suite 150 Ashburn, VA 20147				
EXAMINER WEINSTEIN, LEONARD J				
ART UNIT 3746		PAPER NUMBER		
MAIL DATE 03/27/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/525,262

Applicant(s)

NAKANO ET AL.

Examiner

LEONARD J. WEINSTEIN

Art Unit

3746

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4, 5 and 7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 5 and 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 23, 2008 has been entered.

2. The examiner acknowledges the amendments to claims 1 and 5.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitations of claim 1 includes the recitation of "an opening" for three different elements in claim 1. The examiner acknowledges that these opening include an opening in a compressing room, an opening in a first path, and an opening in a second path. Some time of identifier such as --- a compressing room opening --- and ---- a first path opening --- would clarify the limitations sufficiently.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Makoto et al. JP 2003-42064 in view of Lee et al. US 6,446,454. Makoto teaches all the limitations as claimed for a hermetic compressor comprising: [claims 1 and 5] an electric motor unit 105, a compressing unit (106, 112, 130) driven by the electric motor unit 105, and a hermetic container 101 accommodating the electric motor unit 105 and the compressing unit (106, 112, 130), wherein the compressing unit (106, 112, 130) comprises a compressing room 122 having an opening 134b, a suction valve 135 disposed at the opening 134b of the compressing room 122, and a suction muffler 143 having a suction muffler body 143a forming a sound-deadening space, a first communicating path 145 communicating with the suction valve 135 and with the sound-deadening space 143a (Makoto – Abstract, Solution Section), and a second communicating path 144 communicating with the hermetic container 101 and with the sound-deadening space 143a, wherein an opening 145a, which is situated in the sound-deadening space 143a, of the first communicating path 145, and an opening 144a, which is situated in the sound-deadening space 143a, of the second communicating

path 144 open in a substantially identical direction and in a horizontal direction, as shown in figure 3; **[claim 5]** wherein the first communication path 145 is disposed above the second communication path 144.

Makoto fails to teach the following limitations that are taught by Lee for a hermetic compressor including: **[claim 1]** a wall (upper wall defining space referenced by numeral 28 in figure 4) of the suction muffler body 200 has an integrally formed fixed sound-insulating wall (lower wall defining space referenced by numeral 28 being integral with the sidewalls extending from the upper wall defined the space 28) forming an opposite face confronting both of two openings (as defined by the openings of elements 22 and 25 within the space referenced by numeral 24a) of the first 22 and second 25 communication paths situated in the sound-deadening space 24a, and the integrally formed fixed sound-insulating wall (lower wall defining space referenced by numeral 28) reinforcing a frame of the suction muffler body 200, and wherein the sound-insulating wall (lower wall defining space referenced by numeral 28) and the wall of the suction muffler body 200 form a blocked sealed space 28 to reduce sound transmission (Lee - col. 3 ll. 67 - col. 4 ll. 2); **[claim 5]** wherein a wall (upper wall defining space referenced by numeral 28 in figure 4) of the suction muffler body 200 has an integrally formed fixed sound-insulating wall (lower wall defining space referenced by numeral 28 being integral with the sidewalls extending from the upper wall defined the space 28) at a place at least confronting (as shown in figure 4) both of the openings (as defined by the openings of elements 22 and 25 within the space referenced by numeral 24a) situated in the sound-deadening space 24a, and reinforcing the wall a frame (framed of element

200 defined by its outer walls) of the suction muffler body 200, wherein the sound-insulating wall (lower wall defining space referenced by numeral 28) works as a guiding wall for guiding gas sucked from a second communication 22 path to a first communication path 25 smoothly (Lee - col. 3 ll. 67- col. 4 ll. 2), wherein the sound-insulating wall (lower wall defining the space 28) and the wall (upper wall defining the space 28) of the suction muffler body 200 form a blocked sealed space 28 to reduce sound transmission (Lee - col. 3 ll. 67 - col. 4 ll. 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a suction muffler wherein inlet and outlet path face the same direction in a sound deadening space and face the inside of an outer wall of the suction muffler, as taught by Makoto, so that there was an intermediate wall between two openings and the outer wall of the muffler so as to form an empty space between the outer wall and the added wall, as taught by Lee, in order to attenuate noise of a certain frequency produced by the suction of refrigerant gas going through the muffler (Lee – col. 3 ll. 67 – col. 4 ll. 2).

8. Claims 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Makoto et al. JP 2003-42064 in view of Lee et al. US 6,446,454, as applied to claims 1 and 5 above, further in view of Ono et al. 6,155,067. A combination of Makoto and Lee teaches the invention as discussed including: **[claim 4]** (with respect to Makoto) a suction muffler 143 formed of at least two components, elements 147, 148, and 151, as shown in figure 6; **[claim 7]** (Makoto as combined with Lee) and a wall, as the lower wall defining element 28 of Lee is applied to Makoto wherein just as the wall faces openings 22 and 25, if installed in like manner in Makoto the wall would be a vertical

wall facing openings 144a and 145a, that would be disposed vertically with respect to an opening face (as defined generally by element 147 as shown in figure 6 of Makoto) of an absorbing body 143 (body therein formed between the outer wall of Makoto and the added wall of the Lee as discussed above). A combination of Makoto and Lee fails to teach the limitation that is taught by Ono for a hermetic compressor provided with a suction muffler 16 made of a synthetic resin (Ono – col. 4 ll. 39-43) for the purposes of providing a suction muffler with low thermal conductivity (Ono- col. 2 ll. 25-26). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a suction muffler for a hermetic compressor made from synthetic resin type in order to provide a muffler with a low thermal conductivity (Ono- col. 2 ll. 25-26).

Response to Amendment

9. Applicant's arguments with respect to claims 1, 4, 5, and 7 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEONARD J. WEINSTEIN whose telephone number is (571)272-9961. The examiner can normally be reached on Monday - Thursday 7:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on (571) 272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Devon C Kramer/
Supervisory Patent Examiner, Art
Unit 3746

/Leonard J Weinstein/
Examiner, Art Unit 3746